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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. **2011-1017**

12 **DAWN LORRAINE BAXTER**

13 PO Box 1562
Frazier Park, CA 93225

A C C U S A T I O N

14 Registered Nurse License No. 750190

15 Respondent.
16

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs (Board).

23 2. On or about May 7, 2009, the Board issued Registered Nurse License No. 750190 to
24 Dawn Lorraine Baxter (Respondent). The Registered Nurse License expired on August 31, 2010,
25 and has not been renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 118, subdivision (b), provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 2750 provides that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, . . .

....

"(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it. . . ."

7. Section 2762 states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to

1 himself or herself, any other person, or the public or to the extent that such use impairs his or her
2 ability to conduct with safety to the public the practice authorized by his or her license.

3

4 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any
5 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this
6 section."

7 8. Section 2764 provides that the expiration of a license shall not deprive the Board of
8 jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision
9 imposing discipline on the license. Under section 2811, subdivision (b), the Board may renew an
10 expired license at any time within eight (8) years after the expiration.

11 COST RECOVERY

12 9. Section 125.3 provides, in pertinent part, that the Board may request the
13 administrative law judge to direct a licentiate found to have committed a violation or violations of
14 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
15 enforcement of the case.

16 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

17 10. Hydrocodone, with trade names of Norco and Vicodin, is Schedule III controlled
18 substances pursuant to Health and Safety Code section 11056(e)(4), and categorized as a
19 dangerous drug pursuant to section 4022.

20 11. Hydromorphone, with a trade name of Dilaudid, is an Opium derivative classified as
21 a Schedule II Controlled Substance pursuant to Health and Safety Code section 11055,
22 subdivision (b)(1)(k), and categorized as a dangerous drug pursuant to section 4022.

23 12. Lorazepam, with the trade name of Ativan, is a Schedule IV controlled substance
24 pursuant to Health and Safety Code section 11057(d)(16), and categorized as a dangerous drug
25 pursuant to section 4022.

26 13. Methadone, a synthetic opiate, is a Schedule II controlled substance as designated by
27 Health and Safety Code section 11055(c)(14), and categorized as a dangerous drug pursuant to
28 section 4022.

14. Midazolam is a water soluble benzodiazepine Schedule IV controlled substance as defined in Health and Safety Code section 11057(d) , and categorized as a dangerous drug pursuant to section 4022.

15. Morphine/Morphine Sulfate (extended release MS Contin), a narcotic substance, is a Schedule II controlled substance pursuant to Health and Safety Code Section 11055(b)(1)(M), and categorized as a dangerous drug pursuant to section 4022.

FIRST CAUSE FOR DISCIPLINE

(False Records)

16. Respondent is subject to disciplinary action under section 2761, subdivision (a), and 2762, subdivision (e), on the grounds of unprofessional conduct, in that on or between March 23, 2009, and on or about April 6, 2009, her term of employment, while on duty as a registered nurse at Bakersfield Heart Hospital, Bakersfield, California (BHH), Respondent falsified, or made grossly incorrect, grossly inconsistent, or unintelligible entries in hospital, patient, or other record pertaining to controlled substances, as follows:

a. Patient X-1.

1) On or about March 26, 2009, at 2001 hours, without a physician's medication order, Respondent withdrew three (3) Midazolam HCL 2 mg/2 ml injections and failed to record administration and / or wastage of the medication on the patient's Medication Administration Record (MAR).

2) On or about March 26, 2009, at 2202 hours, without a physician's medication order, Respondent withdrew one (1) Morphine Sulfate 4 mg/1 ml injection and failed to record administration and / or wastage of the medication on the patient's MAR.

3) On or about March 27, 2009, at 0034 hours, without a physician's medication order, Respondent withdrew one (1) Midazolam HCL 2 mg/2 ml injection and documented return of the medication.

4) On or about March 26 and 29, 2009, for patient X-1, Respondent failed to account for three (3) Midazolam HCL 2 mg/2 ml injections and one (1) Morphine Sulfate 4 mg/1 ml injection in any hospital record.

1 b. Patient X-2.

2 1) On or about March 27, 2009, physician medication orders were Ativan .5 mg tablet
3 by mouth.

4 2) On or about March 27, 2009, at 2103 hours, pursuant to physician's medication order,
5 Respondent withdrew one (1) Lorazepam (Ativan) 1 mg tablet. Respondent recorded
6 administration of one (1) Lorazepam 1 mg injection, not a tablet, on the patient's MAR.
7 Respondent failed to record administration and / or wastage of the one (1) Lorazepam (Ativan) 1
8 mg tablet on the patient's MAR.

9 3) On or about March 27, 2009, at 2103 hours, without a physician's medication order,
10 Respondent withdrew two (2) Hydrocodone 5 mg tablets and failed to record administration and /
11 or wastage of the medication on the patient's MAR.

12 4) On or about March 27, 2009, for patient X-2, Respondent failed to account for one (1)
13 Lorazepam (Ativan) 1 mg tablet and two (2) Hydrocodone 5 mg tablets in any hospital record.

14 c. Patient X-3.

15 1) On or about March 28, 2009, without a physician's medication order, Respondent
16 withdrew one (1) Hydromorphone 2 mg/1 ml injection and failed to record administration and / or
17 wastage of the medication on the patient's MAR.

18 2) On or about March 28, 2009, for patient X-3, Respondent failed to account for one (1)
19 Hydromorphone 2 mg/1 ml injection in any hospital record.

20 d. Patient X-4.

21 1) On or about March 28, 2009, physician medication orders were Dilaudid 4 mg IM
22 (intramuscular) injection.

23 2) On or about March 28, 2009, at 0644 hours, Respondent withdrew one (1)
24 Hydromorphone (Dilaudid) 2 mg/1 ml injection, not 4 mg as ordered. At 0645 hours, Respondent
25 recorded administration of Dilaudid 4 mg IM on the patient's MAR.

26 e. Patient X-5.

27 1) On or about March 29, 2009, physician's medication orders were one (1)
28 Hydromorphone 2 mg every 4 hours as needed.

1 2) On or about March 30, 2009, at 0644 hours, Respondent withdrew one (1)
2 Hydromorphone 2 mg/1 ml injection and failed to document administration and / or wastage on
3 the MAR.

4 3) On or about March 29, 2009, for patient X-5, Respondent failed to account for one (1)
5 Hydromorphone 2 mg/1 ml injection in any hospital record.

6 f. Patient X-6.

7 1) On or about March 29, 2009, at 2211 hours, without a physician's medication order,
8 Respondent withdrew two (2) Hydromorphone 2 mg/1 ml injections and failed to document
9 administration and / or wastage on the MAR.

10 2) On or about March 29, 2009, for patient X-6, Respondent failed to account for
11 two (2) Hydromorphone 2 mg/1 ml injections.

12 g. Patient X-7.

13 1) On or about March 29, 2009, physician's medication orders were Dilaudid 2 mg IV
14 at 2050 and 2230.

15 2) On or about March 29, 2009, at 2038 hours, prior to physician's orders, Respondent
16 withdrew one (1) Hydromorphone 2 mg/1 ml injection and documented administration on the
17 patient's MAR.

18 3) On or about March 29, 2009, at 2200 hours, without withdrawal, Respondent
19 document administration of one (1) Hydromorphone 2 mg/1 ml injection on the patient's MAR.

20 h. Patient X-8.

21 1) On or about March 29, 2009, physician medication orders were Dilaudid 1 mg IV.

22 2) On or about March 29, 2009, at 2304 hours, Respondent withdrew one (1)
23 Hydromorphone (Dilaudid) 2 mg/1 ml injection. At 2300 hours, Respondent documented
24 administration of .5 mg Dilaudid IV, .5 mg less than ordered. At 2305, Respondent documented
25 wastage of the remaining Hydromorphone 1.5 mg.

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1 i. Patient X-9.

2 1) On or about April 3, 2009, at 2140 hours, without a physician's medication order,
3 Respondent withdrew one (1) Methadone HCL 10 mg tablet and failed to document
4 administration and / or wastage on the patient's MAR.

5 2) On or about April 3, 2009, for patient X-9, Respondent failed to account for one (1)
6 Methadone HCL 10 mg tablet in any hospital record.

7 j. Patient X-10.

8 1) On or about March 30, 2009, at 0609 hours, without a physician's medication order,
9 Respondent withdrew one (1) Hydromorphone 2 mg/1 ml injection, and at 0820 hours, over
10 two (2) hours later, she documented wastage of one (1) Hydromorphone 2 mg/1 ml injection.

11 k. Patient X-11.

12 1) On or about April 3, 2009, physician's medication orders were one Dilaudid mg IV.

13 2) On or about April 3, 2009, at 2207 hours, Respondent withdrew one (1)
14 Hydromorphone 2 mg/1 ml injection and failed to document administration and / or wastage on
15 the MAR.

16 3) On or about April 3, 2009, for patient X-11, Respondent failed to account for one (1)
17 Hydromorphone 2 mg/1 ml injection in any hospital record.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Illegally Obtain / Possess Controlled Substances / Dangerous Drugs)**

20 17. Respondent is subject to disciplinary action under sections 2761, subdivision (a), and
21 2762, subdivision (a), on the grounds of unprofessional conduct, in that while on duty as a
22 registered nurse at BHH, Respondent obtained or possessed in violation of law controlled
23 substances and dangerous drugs, as follows:

24 1) On or about March 26 and 29, 2009, for patient X-1, Respondent failed to account for
25 three (3) Midazolam HCL 2 mg/2 ml injections and one (1) Morphine Sulfate 4 mg/1 ml injection
26 in any hospital record.

27 2) On or about March 27, 2009, for patient X-2, Respondent failed to account for one (1)
28 Lorazepam (Ativan) 1 mg tablet and two (2) Hydrocodone 5 mg tablets in any hospital record.

3) On or about March 28, 2009, for patient X-3, Respondent failed to account for one (1) Hydromorphone 2 mg/1 ml injection in any hospital record.

4) On or about March 29, 2009, for patient X-5, Respondent failed to account for one (1) Hydromorphone 2 mg/1 ml injection in any hospital record.

5) On or about March 29, 2009, for patient X-6, Respondent failed to account for two (2) Hydromorphone 2 mg/1 ml injections.

6) On or about April 3, 2009, for patient X-9, Respondent failed to account for one (1) Methadone HCL 10 mg tablet in any hospital record.

7) On or about April 3, 2009, for patient X-11, Respondent failed to account for one (1) Hydromorphone 2 mg/1 ml injection in any hospital record.

Complainant refers to and by this reference incorporates the allegations set forth above in paragraph 16, subparagraphs a(1) – k(3), inclusive, as though set forth fully.

THIRD CAUSE FOR DISCIPLINE

(Dangerous Use)

18. Respondent is subject to disciplinary action under sections 2761, subdivision (a), and 2762, subdivision (b), on the grounds of unprofessional conduct, in that on and between March 23, 2009, and on or about April 6, 2009, while employed as a registered nurse at BHH, Respondent dangerously used controlled substances and dangerous drugs to an extent or in a manner dangerous or injurious to herself or others and / or to the extent that such use impairs her ability to conduct with safety to the public the practice authorized by his or her license, when she obtained controlled substances and dangerous drugs for patients and failed to document their administration, and / or wastage on hospital records. Complainant refers to and by this reference incorporates the allegations set forth above in paragraphs 16 and 17, inclusive, as though set forth fully.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

19. Respondent is subject to disciplinary action under section 2761, subdivision (a) and / or (d), in that Respondent committed acts of unprofessional conduct and / or violated the Nursing

1 Practice Act. Complainant refers to and by this reference incorporates the allegations set forth
2 above in paragraphs 16 - 18, inclusive, as though set forth fully.

3 **PRAYER**

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Board of Registered Nursing issue a decision:

6 1. Revoking or suspending Registered Nurse License No. 750190, issued to Dawn
7 Lorraine Baxter;

8 2. Ordering Dawn Lorraine Baxter to pay the Board the reasonable costs of the
9 investigation and enforcement of this case, pursuant to section 125.3;

10 3. Taking such other and further action as deemed necessary and proper.

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13 DATED: June 30, 2011

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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